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Transportation and Telecommunications Committee
October 19, 2007

[LR179]

SENATOR FISCHER: Good morning and welcome to the Transportation and Telecommunications Committee. I am Senator Deb Fischer from Valentine; I am Chair of the committee. Also we have Senator Ray Aguilar from Grand Island who is with us today. To my immediate right is our Committee Counsel, Mr. Dustin Vaughan. To my left is our Committee Clerk, Mrs. Pauline Bulgrin. And our page for the day is Kara Johnson from Lincoln. This morning we're going to be hearing LR179 and that will be the only one that we hear today. There is a green sign-in sheet and I would ask that you please fill in this form only if you actually testify before the committee. Please sign your name, complete address, and indicate who you represent regarding the LR on which you wish to testify. Please hand the green sign-in sheet to the Clerk, Mrs. Bulgrin, before you testify. There is also a yellow sign-in sheet for those of you who wish to indicate your presence regarding this resolution without publicly testifying. This will be labelled as an exhibit and it will be part of the official records of the committee. If you have a prepared statement, please make it available so that we can follow along and have it inserted into the record. Written materials may be distributed at the hearing to committee members only as exhibits while testimony is being offered. If you are following other testifiers I ask that you please listen to their comments and try not to be repetitive. And if you have a cell phone I would also ask that you turn it off at this time. With that we will begin our hearing on LR179. This is a study to consider alternatives available to the Department of Motor Vehicles in implementing the REAL ID Act of 2005. Our Committee Counsel, Mr. Dustin Vaughan will be giving the introduction. So, Dusty.

[LR179]

DUSTY VAUGHAN: Thank you, Senator Fischer. Senator Aguilar, thanks for coming. For the record my name is Dusty Vaughan, spelled V-a-u-g-h-a-n, and I'm the Committee Counsel. LR179 was introduced to keep the committee updated on the progress of the REAL ID Act of 2005 and how it will impact Nebraska. The last time the committee met with representatives from the Department of Motor Vehicles, we were

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given a vision of what our license-issuing process would look like under REAL ID. This direction included 15 to 19 regional sites located near high-density population areas where citizens could go to get their driver's license, and one central issuance site where all licenses and identification cards would be processed. County government participation in license issuance would most likely end. We are still waiting for the Department of Homeland Security to issue the final rule regarding REAL ID. It is estimated that it will be out some time in the next month. Hopefully Director Neth will be able to have a little bit more information on that. Until that time no one can be certain what REAL ID will require. However, I think we can safely assume that the basic structure of the proposed rule will remain intact. That would include an effective date of May 11, 2008 of verification of a select number of identification documents with several national databases, electronic storage of those documents, physical security of the licensing locations, and stringent employee background checks. At the state legislative level, most states are outwardly continuing to oppose REAL ID. While only two states have passed legislation attempting to bring them into compliance with REAL ID, seven states have passed binding legislation that prohibits the implementation of the Act. Fourteen others, including us here with our LR28 last session have passed nonbinding resolutions either refusing to implement the act or asking Congress to repeal it. NCSL continues to also take a hard stance. If Congress refuses to fund at least a portion of the cost associated with REAL ID and make significant changes by December 31 of this year, NCSL will go on record as urging Congress to repeal the Act. Those were the outward signs of what states are doing. I think Director Neth can shed some more light on what states are inwardly doing. DMVs preparing to implement this act as they are doing here. With that, I will turn it back over to Senator Fischer and if you have any questions... [LR179]

SENATOR FISCHER: Thank you, Dusty. Any questions? I see none. Thank you very much. When we have interim studies, as you know, we have no proponents or opponents of the measure. But we're here to hear information that you may have to bring before the committee that will help us make decisions in the future. With that, I

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would encourage and invite our first testifier to step forward. Good morning. [LR179]

BEVERLY NETH: (Exhibit 1) Good morning. Thank you Chairwoman Fischer, members of the Committee, Senator Aguilar, I am Beverly Neth, Director of the Department of Motor Vehicles. I am here today to provide you with information regarding Public Law 109-13, also known as the REAL ID Act. Specifically I intend to provide you with information concerning why we need to implement the provisions of the REAL ID Act, and how the Nebraska DMV proposes to accomplish the same. Though the members of this committee are well-versed in the history of the matter, for the record and for those who may be new to the issue, I am going engage in a brief review of the history of the REAL ID Act. On July 22, 2004, the 9/11 Commission issued its final report. Among its many recommendations, the Commission offered its opinion that there should be uniform standards for the issuance of birth certificates and source identification documents such as the driver license. The 9/11 Commission Report led to the introduction of the Intelligence Reform and Terrorism Prevention Act of 2004, known as the 9/11 Commission Implementation Act of 2004. This Act was signed into law on December 17, 2004. One provision called for the implementation of federal driver license and identification cards to be developed through a process of negotiated rule-making with the input and participation of local elected officials and motor vehicle administrators, as well as the representatives of federal agencies and other interested parties. This process was underway when Congress reconsidered and passed the REAL ID Act, which was signed into law on May 8, 2005. The REAL ID Act does many things--one of the things was to repeal the negotiated rule-making established by the Intelligence Reform Act of 2004. In place of the negotiated rule-making, REAL ID stated that beginning on May 11, 2008, a federal agency may not accept for any official purpose a driver license or ID card issued by a state to any person, unless the state is meeting the requirements of the Act. A federal purpose or official purpose defined under the Act includes access to commercial airline travel, access to federal buildings and facilities, and other purposes for which the federal government might require identification be shown. The Act articulates a set of standards that the states are

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required to adopt concerning the issuance driver licenses and identification cards. On March 1, 2007, the Department of Homeland Security issued its long-awaited Notice of Proposed Rulemaking associated with REAL ID. As the name implies, the proposed rule is not a final rule. There were over 28,000 comments filed to the proposed rule, which is rumored to have set a new rule-making record. We are currently awaiting the final rule. The proposed rule did provide that a state may request an extension of the May 11, 2008 deadline based on the lack of REAL ID regulations to guide its implementation, by filing a request with DHS no later than October 1, 2007. Michael Chertoff, Secretary of Homeland Security, recently extended the extension deadline to February of 2008. The request for consideration shall state that the state needs sufficient time to consider the final rule and will not otherwise be in a position to comply with the final rule. A state receiving an extension is required to submit a compliance plan no later than six months from the date which the extension is granted, detailing milestones, schedules, and budgets that will allow the state to meet the requirement of the final regulation. Periodic updates to DHS of the state's progress on the compliance plan will be required. The extension request will be deemed justified for a period lasting until, but not beyond December 31, 2009. A state must be in a position to begin issuing its first REAL ID compliant card on January 1, 2010; and it must complete its re-enrollment of all cardholders by May 11, 2013. The history portrayed in the few preceding paragraphs represents approximately the four years that the federal government has been involved in the topic of driver license and ID card security. There are many provisions of the REAL ID Act that were previously recognized by every DMV in the country as valid security issues associated with the enrollment of applicants and production and card issuance and state-issued ID cards. The recognition of those issues was evidenced in the Driver License Agreement of 2004, a document that represented years of work by the states and that is destined to replace the existing Driver License Compact and Non-Resident Violator Compact. Nebraska has been a member of both of those compacts since their inception in the 1960s. The states began working on a security best practices document in 2001. The work culminated in the publication of the AAMVA DL/ID Security Network Framework in February of 2004.

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When the Nebraska DMV articulated its vision for driver licensing in 2000, with the implementation of the Interactive Driver License System and the Digital Driver License System, we set a goal to implement the highest level of security and integrity in our processes and systems. The vision was grounded firmly in the policy initiatives of combatting underage drinking, protecting against identity theft, and reducing fraud. In 2001 we implemented the Social Security Verification program, one of the most effective fraud-prevention tools we currently utilize. In 2005 we were the second state to incorporate the digital watermark into our card. The digital watermark is a cross-jurisdictional, forensic security feature now being used by 18 states. The DMV has also recognized for some time that there is a tremendous value in the DMV having real-time access to other states' driving records and vital statistic records. The concept of one driver, one record has been a topic of discussion inside the DMVs for years. Prior to REAL ID, the DMVs, through their membership association, known as AAMVA, sought federal funding to build a pointer system similar to the Commercial Driver License Information System that limits a person to holding only one driver license or state-issued ID card at a time. Unless you are a CDL-holder or have a suspended license in another jurisdiction, we have no electronic method to verify the existence of a driving record in another jurisdiction. People can and sometimes do hold one or more driver license or ID card. All of these initiatives in some manner dovetail with the underlying concept of the REAL ID Act. When viewed through the lens of a security initiative we can recognize there is value in the notion of REAL ID. However, that value is often weakened by a great deal of negative emotion surrounding the REAL ID implementation. The challenge is in not allowing the negative emotion of REAL ID to override the fact that the security of the systems and card, and the integrity of the business process associated with the Nebraska driver license and state-issued ID card are real-life issues that affect Nebraskans. In August the DMV received the initial results of the antifraud service that was provided to us by our driver license vendor. The vendor took the 2 million images stored in the DMV database and performed a one-to-many scrub on each photo. That photo scrub resulted in a preliminary report of 120,000 individuals who appeared to have more than one document issued under more than one

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name. At first blush it appears there are possibly 120,000 fraudulently issued driver license or ID cards. In reality the number is less than that. An initial statistical sampling indicates that approximately 50 percent of the apparent matches are not really matches at all. They are just photos of two people who look a lot alike. However, 33 percent of the instances of the multiple document issues were the result of an operator error--extrapolated to the entire license and ID card database that equates to a 2 to 4 percent error rate. The treasurer's staff simply didn't bother to match the name of the individual with the person whose picture he or she was taking. This is especially obvious when the name and gender of that of a male is the picture of a female. While this is certainly not fraud, it cannot be overlooked. Each time we issue a document through the digital driver license system we have to pay our vendor \$4.30. Roughly 45,000 documents appear to issued in error. That's \$193,000 that's been paid out for errors, and 45,000 people who have had to have their documents reissued and some having to make a return trip for the corrected document. Our statistical sample also indicates that there is a fraud rate of 1 to 2 percent in the entire database. That equates to anywhere between 13,500 to 27,000 possible instances of fraud--individuals who hold multiple documents in different names. In 2005 the DMV created a fraud investigator position and staffed it with an individual with a law enforcement background. Our goal was to provide a single contact within the agency for fraud investigation relative to both driver-licensing and motor-vehicle fraud. From January 2006 to June 2007 we have opened 208 fraud and/or identity theft cases. Those investigations have led to 45 arrests and prosecutions. In some instances the individuals were seeking an identity that will allow them access to age-sensitive products, alcohol being chief among them. Other times the individual was an illegal immigrant seeking to assume the identity of a legal resident. We've uncovered several instances of welfare and/or disability fraud. Some are seeking new identities for financial gain. Others still are seeking new identities to avoid the Sex Offender Registration requirements. In October of 2006 a DMV examiner reported to the DMV administration that they had been approached to engage in a scheme to fraudulently issue ID cards to illegal immigrants. Because we were alerted to the fraud and the examiner was willing to engage in an undercover

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operation, we were able to engage the Nebraska State Patrol, FBI, and Immigration and Customs Enforcement (also known as ICE) in the issue. Over the course of the next few months our examiner issued several documents to illegal immigrants who were being brought to Nebraska by people from outside of Nebraska. The illegal immigrants were from all over the world. Their goal was to get an identity and leave. Once they had a state-issued ID card they had an open door. The operation culminated in the arrest of 14 individuals on a variety of immigration and bribery charges. At the time of arrest our examiner had been given over \$8,000 for the issuance of the 14 fraudulent documents. The integrity and dedication of the examining division staff is the only reason we know about this type of fraud. The way we do business in Nebraska is fraught with problems and ripe for abuse. We have examining staff in 99 sites. Only 7 of those sites have supervisory oversight. In every other station the examiners either work alone or with one or two examiners or staff assistants. In the above instance even the other examiners working alongside our examiner who was undercover did not know what was going on. No one suspected that the examiner was engaging in fraud as part of an undercover operation. Identity theft and fraudulently obtained driver licenses and ID cards are occurring in Nebraska. It is time we accept the stark reality that driver license does not just signify that we possess the privilege to operate a motor vehicle. It is the identity document issued by the state. It is the one document commonly requested and proffered to establish our identity. If we come to accept that reality, then we can begin to view the process for enrollment and issuance of documents in a different light. We can come to see the process for what is: an identity management system. Viewed that way it makes sense to institute and demand the highest level of security and integrity in the systems and process. It is logical to consolidate the process under one entity that can provide the necessary staffing, training, and accountability. It is rational to consolidate the services into a limited number of facilities that can be adequately staffed to provide supervisory oversight for improved security, business process, and customer service. It is a sound business decision to adopt a process that can provide for cost-effective and efficient implementation of card security features and the most secure card production methods possible. And it is reasonable to allow for the verification of source identity

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documents to the original issuing entity as a means to detect counterfeit and fraudulent documents. Adopting those statements as our underlying tenets and granting the DMV authority to make them real, for all practical purposes, makes Nebraska REAL-ID-compliant. I respectfully offer you a way to improve security and the integrity of the driver license and ID card process in two statutory phases. Phase one would include the following: granting the DMV the statutory authority to develop and implement a central card-issuance production; statutorily removing the counties from the driver license and ID card process; granting the DMV the statutory authority and responsibility to implement DMV Regional Service Centers; adopting a statutory lawful status requirement; adopting a temporary driver license and ID for all legal immigrants; granting the DMV the authority to verify all source documents to the original issuing entity; providing for the modification of driver license fee structure to cover one-time and annual costs. Phase one would include funding for additional DMV employees, programming objectives, and a public information campaign. I'll elaborate on a couple of the phase one components. Central card issuance and production provides the most secure and cost-effective way to produce a driver license and ID card. It allows the state to concentrate the necessary security into one facility, thereby reducing security costs. It also allows the state to do away with the deployment of expensive printer equipment in multiple locations. Part of the per-card cost associated with our digital driver license system is allocated to the 108 card printers we currently have in Nebraska.

Implementation of 108 of the type of card printers that can produce the most effective and difficult-to-counter security to the card is achievable at an estimated cost to the state of \$11 million. By using the technology available to us and changing our business process from an over-the-counter to central issuance, we can eliminate the need to spend that \$11 million. Removing counties from the driver license process and regionalizing the services into a limited number of service centers gives the DMV the opportunity to appropriately and adequately staff its facilities. Regionalizing allows the DMV to provide the necessary supervisory oversight and accountability. It allows the DMV to better utilize existing staff. It allows for more flexibility in meeting the basic needs of our staff. It allows for the possibility of expanded hours of service and allows

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the DMV to choose facilities that provide ample parking and surfaces on which we can conduct a variety of skills tests associated with certain permits and licenses. Since 2000 Nebraskans have had the opportunity to obtain a driver license or ID card in any county--not just their county of residence. We have reviewed the numbers and found that 79 percent of Nebraskans are obtaining their services in 19 communities throughout Nebraska. Another 19 percent are within a 50-mile radius of those 19 communities. Based on this factual data we propose to stand up 19 DMV Regional Service Centers. The 19 proposed locations are: Scottsbluff, Alliance, McCook, Valentine, North Platte, Broken Bow, Kearney, O'Neill, Hastings, Grand Island, Norfolk, Columbus, Beatrice, Lincoln, Fremont, South Sioux City, Omaha, Papillion, and Auburn. Phase two of the statutory authority would include the following: statutory adoption of a limited number of acceptable source documents; authority to build and utilize a document imaging system; and any residual authority necessary to complete phase one objectives. Phase two will also include funding for remaining DMV staffing needs, a document-imaging system, and ongoing programming expenditures, DMV facility costs, and all other necessary expenditures. The Department's preliminary estimates indicate that the one-time costs would be just over \$6 million with an annual cost of approximately \$8 million. This estimate reflects the anticipated costs associated with DMV Regional Service Centers, shifting the \$2.1 million of card fees currently retained by the counties to the state, an approximate addition of 70 new DMV employees, programming to existing systems, and implementing a digital-imaging system. Attempting to implement the previously-articulated tenets in the existing driver licensing environment will not only be costly, but they will be next to impossible to fulfill. The DMV estimates that nearly 120 new DMV employees would be needed within our existing business model to bring the examining division up to adequate staffing levels. Maintaining our current over-the-counter card production would cost over \$11 million in card printers, as I previously noted. The DMV estimated that the one-time implementation costs within the existing business process would be over \$21 million, with an annual cost of approximately \$9 million. These figures do not include the costs to the counties to upgrade their courthouses and other facilities to accommodate the

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necessary security modifications, process changes, and costs for training and background checks for employees. What would be the practical effect of all of this? It would mean that as soon as we had statutory authority, the DMV would adopt a central issuance process. Nebraskans would no longer receive their driver license or ID cards the same day they apply for them. Documents will be mailed from a central production facility. This mailing would take place in fewer than 10 days. The DMV would forward with the phased adoption of DMV Regional Service Centers. Each Regional Service Center will be a major project unto itself. Bringing the Regional Centers up one at a time or two at a time is probably the only way we are going to accomplish it. This would allow us to transition Nebraskans to a new facility in an orderly fashion that could provide for ample notice and education of the citizens. This highly aggressive goal will be to...the highly aggressive goal will be to have all the necessary business processes and security in place. So that on January 1, 2010, the Nebraska DMV will be able to enroll applicants and issue driver license and ID cards in a manner that is consistent with the federal driver license standards, so that those cards will be accepted for official federal purposes. Of course the details of what we will be implementing and the exact costs associated with the implementation will be developed after the issuance of the final rule by the Department of Homeland Security. The state had hoped for the final rule in August. Then we were hoping for an October rule, but as recent as yesterday I read an article that quoted DHS Assistant Secretary Stewart Baker as saying we might have the final rule in the next two to three months. Continued delay in the issuance of the final rule has left us with our hands tied. All indications, including personal assurances from DHS representatives, are that the deadlines of January 1, 2010--that being the date to begin card issuance--and May 2013--the date to complete re-enrollment--are not going to be delayed further. While the longer we wait to make changes to our systems and processes the less likely it is that Nebraska will be in a position to issue a REAL-ID-compliant card. While there are no direct and immediate consequences to the state of Nebraska for failing to issue a REAL-ID-compliant card, it is my understanding that there will be direct and immediate consequences to the citizens of Nebraska, because their driver licenses and ID cards will not be recognized as an identification

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document for official federal purposes. It is with this in mind that I ask you to give your thoughtful consideration to the phased approach I have set forth today. I thank you for your patience today and the opportunity to speak with you. I will attempt to answer any questions you might have regarding this matter. And Senator Fischer, I know that you all have it, and I did attach a map that would show the 19 facilities. The circle drawn around those communities represents the 50-mile radius. [LR179]

SENATOR FISCHER: Thank you, Director Neth. At this point I'd like to acknowledge that Senator Hudkins has joined the committee. Are there questions for the Director? Senator Aguilar. [LR179]

SENATOR AGUILAR: Yeah. Thank you, Beverly. When you talk about the Regional Centers--which, by the way, I like that concept--but I was curious: are you talking about a brand new facility in each of those 19 locations? [LR179]

BEVERLY NETH: Well what...we've begun some conversations with some of our sister agencies, primarily agencies like the Department of Roads and State Patrol, who already have existing facilities in many of these communities. What our first goal would be to look for whether or not there are adequate facilities out there that are already being utilized by other state agencies. And could we colocate with them? Or in the alternative, and some of my conversations with the Department of Roads and State Patrol they have ongoing capital expenditures and needs to improve their facilities. And if we were talking about colocation would their be value in us colocating into different facilities? We're trying to explore all the options available to us so we could do it in the most cost-effective fashion. We haven't had conversations with another agency that has a lot of facilities around the state, that's HHS. Certainly we would look to everyone to see where are you currently located in these communities and could we locate with you? If it appears as though there are no options available to us in that vein, then we would most certainly be looking to some kind of an existing facility within that community

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or potentially building new facilities. [LR179]

SENATOR AGUILAR: So bottom line, it could actually be like, moved out of the Hall County Courthouse, for instance, to... [LR179]

BEVERLY NETH: Well, most likely it would be. Right now, and certainly... [LR179]

SENATOR AGUILAR: Let me pursue that a little bit. The reason I'm asking is because you talked about at a location where they had a method or space to do specific parking and...like, the courthouse has none of that. It's very, very crowded. [LR179]

BEVERLY NETH: That's absolutely right. We are having an extraordinary challenge now in our largest community, Omaha, where we do services in five different branches throughout the city. Recently Omaha moved into a new facility; Douglas County Treasurer moved into a new facility at about 144th--and I'm not sure what the intersection is. But it's on the west edges in the Millard area. That facility is a fantastic facility inside. But outside it is not adequate for parking. And we were using a parking lot facility of an adjoining grocery store and they recently asked us to get out of there. We have no facilities in which to conduct skills tests for commercial driver licensing in that area or any other. So what is happening is, the only area where we can conduct, with any kind of efficiency, a skills test is 108th and Maple. There are three people in that station who are just getting slammed with the workload, because that's where everyone is going. That is just a real solid example of the difficulty in finding facilities where we can conduct these tests. [LR179]

SENATOR AGUILAR: And all those workloads are going to increase when you go regional, because you're picking up more people coming into the system. [LR179]

BEVERLY NETH: Yes. Yeah, you'd really want to...we've done some estimates of the type of facilities we'd need and the outside parking and surface that we'd need. And it's

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pretty staggering, the type of surface area you need in order to truly conduct all of these tests. And what we've looked at is, would it even be further more efficient for us to not do all of these tests even in all of these service centers, maybe not do CDL testing in all of these locations, limit that to even a further number of regional facilities where you might go to do your CDL testing. We do partner with third-party testers, and so a lot of people take advantage of that. But the ones who come see us we may be looking at...and that's certainly all it is, dependent upon the costs...continuing limitation of those services. [LR179]

SENATOR AGUILAR: Okay, one more question, another subject: on your phase two, you have statutory adoption of a limited number of acceptable source documents. Are you talking about reducing the number that's on the books now? [LR179]

BEVERLY NETH: Yes. REAL ID, both in the Act and in the proposed rule, articulated the source documents that were to be being used as a part of the federal standard. What the practical effect of that in Nebraska is: we currently, I think, accept roughly 39 different documents to both evidence...both primary and secondary evidence of your identity. That list would be drastically reduced, and I think it's about nine documents that we would be accepting. The ones that are common certainly would be a birth certificate, maybe the passport, marriage license if your name has changed, those kinds of things that evidence both your date of birth and your name in a consistent fashion. [LR179]

SENATOR AGUILAR: And in making that decision are you anticipating being in compliance with REAL ID regulations when their final rule comes out? [LR179]

BEVERLY NETH: Well, if we do that it certainly gets us...it certainly is a step towards compliance. That in and of itself, accepting those documents is a primary component of REAL ID. And, you know, when we look at what different states accept for identity documents, source documents, even...we probably accept more documents than other states do in some sense. The matriculation card is one that we accept as a secondary

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document that most states don't accept. But we have viewed that as, you know, that's the environment we're in currently. If we wanted to tighten the process and the system, one of the things we'd do is lessen that number of source identity documents that people would be able to bring to us. [LR179]

SENATOR AGUILAR: Thank you. [LR179]

SENATOR FISCHER: Thank you, Senator Aguilar. I noticed that Senator Norm Wallman entered the room. Senator Wallman is from Cortland. If you would like to come up and join us here at the table and be able to ask questions, you are certainly welcome to do so, Senator. [LR179]

SENATOR WALLMAN: [LR179]

SENATOR FISCHER: Other questions? I have some, Senator...I always want to demote you. (Laughter) I have some, Director Neth. In materials that I've been reading on this topic some have said that this is going to require five different databases in order to see the implementation of REAL ID. I believe some of those are to confirm Social Security numbers, legal resident status, passport status, verified driving records from other states...have you heard similar information? [LR179]

BEVERLY NETH: Yes. That is...those would be the databases, particularly, you've mentioned them: there's the Social Security Administration database. We already do verify Social Security numbers to that database in real-time fashion. And when we talk about that verification piece, it's not that all of these records are lumped into a massive database. What it is...is it is a pointer system, essentially. Or it is connection that allows us to go to a database and say, do you have this Social Security number for this person? And then that database says...it sends us back...it does not send us back a Social Security number or any identifying information. What it sends us are codes: 'a', 'b', 'c', 'd', that we then have to interpret what that code means in relation to our

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database. And so, perhaps an 'a' means, yes, that person, that name, and that Social Security number match in our database. That number is verified. A 'c' could mean, well, it doesn't exactly match but we have another name that could be close to that, an alias perhaps, a maiden name and a married name. Or it could be something that said, we have this number associated with a deceased person. So this code then is used in our system and we take whatever action we need to take against it. We've been verifying to that database for...since 2001. The other databases that you mention are...SAVE is the database, the acronym for the database where we would be verifying immigration documents. We would be essentially doing the same thing, doing a link...but not a link, simply a pointer, where we would be going, saying to this database: we have 'x', 'y', 'z' document associated with this person, do you have the same information in your database? And then it will return a record to us, return the information to us. [LR179]

SENATOR FISCHER: Do you have that capability now to verify the legal resident status? [LR179]

BEVERLY NETH: No. [LR179]

SENATOR FISCHER: Is there a database up? [LR179]

BEVERLY NETH: There is a database. The SAVE database is up and we did a pilot project connecting to the database about three years ago, just to determine the efficacy of the database. At that time it was a little bit questionable in what it was returning to us. Not so much that it was returning inappropriate or wrong information, it was more that you had to do a lot of manual checks with it. They have vastly improved that database. Now there are some states that are using it. And as a part of REAL ID, the REAL ID Act, we were required to sign a memorandum of understanding saying, if you get it up, we will use it kind of thing. The vital stats database does not exist. And what that is, once again, is it's not a database, it's a pointer system. So you would be going to a central database that houses some limited data. And you'd be saying, do you have a record for

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Dusty Vaughan? Where is that record? And then it would go: that record exists in Iowa. And then we would say to Iowa--and all this is happening magically, behind the scenes in the world of computers--Iowa would then say, yes, his record is here, it verifies that information is correct and send us back some kind of verification notice. That vital stats database does not exist fully. It is in pilot now. There are, I believe, five or six states that have joined in our using it. Those states that are using it are some of those states around us: South Dakota, Iowa, gosh, I believe Missouri might be using it; Colorado. It appears to be a very good database as they are using it...very high verification rates, in the nineties. The all-driver database, where we would be able to verify a driving record--once again, I'm using a misnomer when I call it a database. It would be a pointer system. The discussions really are: that we would be taking the CDLIS, the Commercial Driver's License Information System that currently contains about, I believe it has a limited amount of information on it...about 78 million drivers, those who hold CDLs in the country. What we do is we go...if a person moves into Nebraska, we verify via the pointer system that they have a CDL in another jurisdiction. We say, where is that CDL? The system says, it's in South Carolina. We then tell South Carolina via the system: send us this gentleman's record, and they send us the record, take it and so they would show in South Carolina that that record has been surrendered to Nebraska. We now become the holder of the one CDL record. And that is in essence what the all-driver system would be designed to do. It does not exist. CDLIS exists. CDLIS has been in place for years, since the early 1990s. CDLIS has never had a security breach. There has never been any indication that any violation has happened within CDLIS, of anyone accessing or hacking into CDLIS to obtain records. It's a very secure system and that would be the model for the drivers system. And that represents, I believe, the databases that we would be looking at. I think that's really all we have. The one thing that REAL ID does require us to do that really, I believe, even DHS has found is almost impossible to do: which is to verify an address, the principle residence. There are some companies and vendors that are offering that service to states. And Nevada is one that has done...is now doing the verification of addresses. And I understand that program is going very well for them. How they're doing it, I haven't done a lot of research on just

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yet. [LR179]

SENATOR FISCHER: Do you have to verify passport status? [LR179]

BEVERLY NETH: Yes we do. Thank you. I'm sorry, I forgot that one. That is a database that would be within the Department of Justice, and we would, once again, be linking to that database, or touching that database in the same fashion. [LR179]

SENATOR FISCHER: And is that currently available? [LR179]

BEVERLY NETH: I don't think it is. DHS... [LR179]

SENATOR FISCHER: How are you going to verify information and comply with the REAL ID Act when there's databases that aren't up? [LR179]

BEVERLY NETH: Senator, you're asking me the same question that the states have been asking DHS. And I believe it is a very valid question to ask. Quite frankly, we can't do it. We just can't do it. And we've said that and DHS has recognized it. Interestingly enough, there are some states who are saying that they were going to be REAL-ID-compliant on May of 2008. I'll tell you what I think they are going to be. I think they are going to be "REAL-ID-lite" compliant, because they can't verify to databases. They can limit the source documents they accept and they can do everything they can within their purview. Unless they're going to do some kind of manual check of these databases, which I would find astounding if they're going to put their customers through that kind of thing. But DHS has, I believe, said they're going to bless those states. That they're REAL-ID-compliant. [LR179]

SENATOR FISCHER: Birth certificates will be accepted, is that correct? [LR179]

BEVERLY NETH: Yes, certified birth certificates...certified copies of birth certificates is

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what we currently accept. [LR179]

SENATOR FISCHER: And we all know there's problems with that, with older people who may not have birth certificates. Also, what if you were born in another state? How is Nebraska going to be able to certify birth certificates from people who were born in South Dakota? Is there a database up for that? [LR179]

BEVERLY NETH: The only way we would be able to do that would be if there were a national pointer system that allowed us to verify vital stats records from other states. [LR179]

SENATOR FISCHER: Is there one? [LR179]

BEVERLY NETH: No, that's the one that's currently in development in pilot phase. But is not...all states do not send their records and I don't believe Nebraska sends its records. [LR179]

SENATOR FISCHER: Where are all these systems going to operate through? [LR179]

BEVERLY NETH: Well, that is another conversation that's going on. DHS is asking the states...currently it is, I believe, \$31 million of the original appropriation that has not been spent, the original appropriation to DHS that has not been spent on REAL ID. DHS has talked about allowing the states, through a competitive grant process, to access those funds. Recently DHS discussed the concept of using that \$31 million to develop a central...to develop really the hub that would manage these verification databases. What we have now, within our DMV world, is a hub that allows us to manage the databases we currently check. And allows us to send information back and forth. DHS is looking at...and that hub is managed by our motor vehicle association, AAMVA. DHS is looking at partnering with AAMVA to expand that hub to include the database...the verifications to these other databases. Frankly, I would be in favor of that, because that

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AAMVA hub is really...it's pretty well-managed in the sense of...it is the states. I mean, AAMVA is us. We are the jurisdictional members of AAMVA. And so we regulate how that hub is used. I fear if this hub were managed by the federal government what might happen with it. I also fear that if this hub were managed by a private vendor what might happen with it. I'm afraid the cost to access the hub might become somewhat extraordinary and difficult for us to meet. In our conversations with DHS and of course with AAMVA, the states are very adamant that you have to limit the costs of our verification of these things. The sheer volume of verifications that you'll be doing demand that the cost be minimal. Our cost to verify Social Security numbers is 3 cents a record. Some discussions on the national level have been that the cost to verify vital stats records could be as much as \$1.70. That would be staggering...it's a staggering amount of money there--240 million driver licenses. That's a lot of money for someone to be reaping off of verification. So long story, we would hope that AAMVA would be the one who would be doing it. [LR179]

SENATOR FISCHER: Okay. Do you have concerns of even if the central location isn't going to be with DHS you're going to have 50 states with their databases and, I guess I'm assuming they're going to be linked somehow. Are they going to be linked? And if they are, don't you see problems there with identity theft? [LR179]

BEVERLY NETH: Well, the concept... [LR179]

SENATOR FISCHER: And I'm putting you on the spot. I wish we had federal representatives here for this discussion. [LR179]

BEVERLY NETH: That's all right, because if we look at how we currently access the commercial driver records, our databases are not linked. What we do is we send a minimal amount of information on every CDL-holder we have to a database, where there's just enough information there that if you're Iowa and a Nebraska CDL-holder has gone to Iowa and is surrendering his Nebraska CDL, Iowa can through the pointer

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system go and say, I have this much information on this person, who has...which state has this records? Iowa is over here looking in this limited-information database for that. That database then says, bingo! That record exists in Nebraska. And it points Iowa back to us. Then we pull the record and send it to Iowa. And Iowa then becomes the record-holder. That is the same concept we would be...we're envisioning to utilize for all drivers. So it's not a database that even if you were to hack it--and CDLIS has never been hacked--even if you were to get in there you're not going to have the keys to the kingdom. And I just would have to rely upon...because we haven't sent all 1.3 million records to that database. And Iowa is not linked to us. They have to go through a central hub to get to us. So I think there is certainly adequate security built in everyone's systems, coming and going, to try to forestall any kind of hacking or any kind of intentional disruption of that information. [LR179]

SENATOR FISCHER: The program is voluntary? And currently there are no penalties to the states that say we're not going to comply with this? [LR179]

BEVERLY NETH: That is correct. [LR179]

SENATOR FISCHER: The problem would be to the citizens of the state. That's been spoken of many times, that if Nebraska refuses to do this, our citizens are not going to be able to get on an airplane, they're not going to be able to travel, maybe they can't even go in the post office any more, because that's a federal building. My question to you would be: could we keep our own driver's licenses and would passports be accepted to get on an airplane or to go into a federal building? [LR179]

BEVERLY NETH: I do not know what the federal government is going to do with respect to entrance to federal facilities where they require identification. I do not know if they would accept that. Air travel...the passport has always been the identification document for international travel, domestic travel...airlines have always relied upon the driver license to ID you. If they remain consistent, then I would assume you could use your

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passport for even domestic airline travel. The cost of a passport now is, I believe, roughly \$100. And if, I suppose, that would be an option just to say to citizens: your driver license will not be recognized. And when I say that, DHS has said some sort of, I don't know, disquieting or odd things about what that really means. They've said that it's not necessarily that your existing driver license wouldn't be accepted, they might accept it. But they might then put you through you some extremely difficult security clearance. I don't know what that means. And I wouldn't want to go through one, (laugh) quite frankly. But that's what they're saying. So without either a REAL-ID-compliant card or passport, then commercial airline travel, I think becomes difficult for people. [LR179]

SENATOR FISCHER: You said the cost of passports is about \$100. What do you anticipate the cost for a REAL ID Nebraska driver's license to be? [LR179]

BEVERLY NETH: That depends upon if we comply and how we comply. If we were to try to comply or to put the security measures that I've discussed into our existing environment, then the cost becomes, gosh, and I had this number and now I've lost it. The increase is, I think somewhere in the neighborhood of \$40 onto our existing \$23.75. If we were to comply by centralizing the card production and by regionalizing, I think it would add roughly \$17 to \$18 to the existing card. So it's about half to comply by regionalizing. When we talk about that, and what I'm trying to stress and what I tried to stress in my testimony is: there is a need for us to look at how we do business. I believe the fraud report that we've received is pretty valid. If we have even the lower end, 13,000 individuals who hold multiple documents in our system, that number is too high. It's just simply too many people who have committed fraud or who potentially hold multiple documents for whatever reason they're doing it. Granted, a number of those are people who are young people, who are accessing, taking advantage of our business process. Because the reality is in a county like Hall County, or my home county of Webster County, I can go in and take a test and I can give the examiner all of my documents that would verify to me, no problem. Then I can walk away with a piece of paper that is an issuance certificate. And I can go out to my car...most courthouses I

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wouldn't even have to leave the courthouse. I can go out in the hallway our go to the other floor where the treasurer's office exists, and I can give that piece of paper to somebody else. And they can walk in and they can have their picture taken with my identity. Now I've done a reasonably stupid thing to do that. But people do it. People give up their identities to other people in this state. Lots of times young people who are over 21 are giving their identity to someone who is under 21. They apparently do not realize that we have a database, and that if you do that, what we do is we cancel your previous document. It's gone. So you may have it still in your possession, but if you're pulled over you're going to show that that's not the correct document. The document is somebody else with somebody else's...it's your name with somebody else's picture on it now. So it is kind of a evidence of the naivete of the general citizenry. But then there are also people who are doing it...and that is not something without consequence. I don't want to diminish that that's going on, because there are very real consequences to underage drinking, and there are lots of advocates who can tell you that. And we try very hard with inside the agency to support those advocates and in combatting underage drinking. But then there are people who are doing things like what our fraud investigator is uncovering: someone who legally needs to register and was required by law to register in the sex offender program, who gets someone else to give them their identity so they don't have to do it, or steals the documents of their child and goes and assumes the child's identity so they don't have to register. It's what happens. It's what is going on. Those are the things we can't combat within our existing process. And, quite honestly, the incident where our examiner was approached: I wish I could give you more detail, because it's pretty frightening, what happened within that particular undercover operation. And it further opened my eyes to the fact that we have some real problems. And we have all of these people out there. And all I can say is, thank God they are Nebraskans, because if we did business like we do business in New Jersey, it would be horrible. A few years ago the New Jersey Governor said that he had to perform an exorcism on the DMV, because of the fraud associated with the agency. They changed the way they do business. You couldn't do this, the way we do business, in many, many states, because the people are not as trustworthy as our staff is. It's just

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the matter of the fact that a driver license or ID card is very, very valuable to those people who can't get it. Our examiner had \$8,000 for less than 20 documents. That person makes less than \$30,000 a year. That person was also promised millions, and I quite frankly think she could have gotten it. So it is a reality that we have a problem. How we choose to approach it, I guess...we have REAL ID, that gives us guidance in how to better improve our systems. REAL ID is somewhat distasteful on levels to nearly all of us. But there are components of REAL ID that make sense. And if we choose to focus on those components, we can ultimately end up in a position where we are issuing a REAL-ID-compliant card. [LR179]

SENATOR FISCHER: When you just spoke of problems in our system and the way we do business, were you specifically referring to the lax security that we have at county courthouses? [LR179]

BEVERLY NETH: That is probably one issue. The other issue really is the fact that we, the Department of Motor Vehicles, have people...the bulk of our examiners operate alone. They operate without any supervisory oversight every day they work. We have 99 issuing sites, multiples in Lancaster and Douglas County, a site in every county generally in the courthouse, but not always in the courthouse, where people are working either by themselves or with one other person. It does not take too much to imagine that that person who works alone could be easily compromised and persuaded to engage in fraud in order to make tens of thousands of dollars. That's just not a far stretch. We also have issues of, you know, just in the normal course of how we do business. And I don't meant to diminish anyone's staff. My staff works very, very hard. They are truly dedicated to their business, and I know the treasurer's staff are the same way. But we cannot, frankly, provide them the training that they need. We cannot focus on both being a regulator and providing customer service. That is just an extremely difficult position these people are put in. The general public wants us to be nice to them and they want us to give them what they want. Sometimes they can't have what they want, but the key, I guess, is being nice and telling them no. That's hard to do when I'm

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having a bad day, and I'm out there all alone, and there's no one who is going to see how I'm treating this person. I can, quite frankly, be a real jerk if I wanted to. Now I hear about those and we hear about that stuff a lot from people. We also hear good things about our examiners. We hear bad things about treasurers' staff, and we hear good things about treasurers' staff. But without an adequate amount of staff in one facility, where we could put a supervisor who can hold people accountable, who can have...take those moments and make them teaching moments or coaching moments, we're never going to get there, never going to be able to improve our customer service, never going to be able to even give our staff the most basic things they need. Our examining staff...if you're an examiner you have to put in your request for vacation a year in advance, because you have to show up. You're the only person there. We have made people literally drive through blizzards to get to a courthouse that has not closed. But if they don't go there is no service. And I do not understand why people want to go take a drive test in a blizzard, but they do. They take drive tests in ice storms. They take drive tests all of the time. If they want it, it's supposed to be given to them. So this is the day-to-day challenge we have. I see that it's, you know, I sometimes shake my head and don't believe it, but it's true. But if we were able to have a reasonable amount of facilities where we could have staff, that it wouldn't be as critical that one person show up, if you had five or six staff you can conduct business if one of those people isn't there. You can't when they're the only person. [LR179]

SENATOR FISCHER: Hopefully this will be my last question. I like discussing things with you, Director, you have a lot of information. You mentioned customer service. You don't think that going from 99 centers now, where people can drive up and get their driver's license, that there's at least one in every county...and if you look at this map there are holes in it. And from your statistics that's 2 percent of the population of the state will not be living within 50 miles. A lot of that covers areas west of Broken Bow. Besides that, you don't think that your customer service skills are going to be questioned when you have 19 facilities available for people to receive their driver's license. Which I understand you're going to mail to them, and in my opinion that brings

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up questions of identity theft and fraud too. But with your customer service how many people do you expect on the first go-round here in Nebraska are going to need to get a REAL ID and then how many for the reissuance before 2013? [LR179]

BEVERLY NETH: Well, let me answer that in two ways. You bring up the point, and I brought up the point of customer service and the challenge to us is always... (buzzing sound from intercom) [LR179]

SENATOR FISCHER: They're buzzing you off, I think now. I don't know. [LR179]

BEVERLY NETH: (Laugh) Yes they are. Is that like the gong? [LR179]

SENATOR FISCHER: They're going you two have to cut it. (Laughter) [LR179]

BEVERLY NETH: The challenge for the Department of Motor Vehicles is: how do you regulate and provide customer service? That is the line we walk. And when you look at the regulatory environment and how do you improve the regulatory environment so we're doing all we can? If we're going enroll these people, it is our responsibility to enroll them in such a fashion that we're doing all we can to prove they are who they say they are, and then once we have them enrolled to protect their data. That should be our chief responsibility. I guess that has become our chief responsibility. It used to be that we used to test people to see how they drive. We don't do that so much any more, but it's still a...it is our absolute...we're still a safety agency. It's still what we do. So we have the regulatory environment on the one side and the other side we have customer service. We want to provide this service in a fashion that makes sense to people. Regional facilities, on their face, probably don't make a lot of sense because of exactly what you're saying is: we're taking a service away from where it currently exists and moving it, in some cases moving it. What we know is: these 19 facilities we've identified are where 79 percent of the population are already getting their document. So we're talking about 19 percent as well who are within a 50-mile radius who will be required to drive at

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least 50 miles to get a card. And, as you pointed out, 2 percent who are going to have to go farther than that. We believe those 2 percent are probably within 75 miles of any of these 19 facilities we've identified. Not to be cavalier about the issue, but I suspect that once every five years people can get to those facilities. If you do not have some kind of a limited license or restricted license, you're probably going once every five years to those communities to do some form of shopping, going to market, you're doing something in those communities. Our challenge will be: how do we deliver this service to people who have restricted licenses? And as a general rule, that most often is the elderly community. There are models out there I think we can look to, to help us with that. Other states deliver this service to the communities. We can partner with Area Agencies on Aging...in most every county...has an aging agency...that's very hard to say. I believe we'll have to expand our partnership with schools, relative to the learner's permit and the younger drivers. We have monumental challenges to continue to try to meet some level of customer service. But one thing a central facility could do for us is it could allow us to set our own hours. Right now we are, as guests of the courthouse, subject to courthouses' hours. If a courthouse closes over the lunch hour, we don't do business over the lunch hour. If they close at 4:30, we're done at 4:30. If we're in our own facility, and we have it staffed with enough people, we can do service over the lunch hour. We can stay past 4:30. We could stay till 7:00 or 8:00 at night some nights. We could actually be open Saturdays. We could expand the hours to provide the customer service and give you the guarantees that, yes, you might have to drive 50 miles, but when you get there we'll be open and we'll be able to give you the service you need. It won't be that when you show up and the examiner is the only person who is there and out giving a drive test, you sit around till they get back. I mean, there is a trade-off. Most definitely there will be a trade-off. But I think the other thing the service centers allows us to do is look to the future and expand our services in that facility. We have home office...we have particular programs that you only get that service in our Lincoln facility. There's nothing that would prohibit us from taking those services out into these 19 facilities. Things like reinstatement of your driver license, those kinds of activities that are limited now to a Lincoln facility could be sent out. I would hope that we

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would continue to look at how we can expand those services and make it better for the general public. [LR179]

SENATOR FISCHER: Thank you. Other questions? Senator Hudkins. [LR179]

SENATOR HUDKINS: Thank you. I have a number of questions and I apologize if you covered some of this in your testimony, but I had 12 people in my office, could hardly leave. So I've just been making notes of things that you have said and I've underlined things in your testimony. On page 2 it says that the state needs sufficient time to consider the final rule. If there's a final rule, isn't that it? [LR179]

BEVERLY NETH: Well, yes, it would be. I mean the final rule is the final rule. I don't think it's going to be another interim rule...it's going to be...but by statement I mean, we'd need to put that impact into our statutory framework. Does it change? How did it change from the interim final rule? There will be indications from DHS that they're going to give...do some changes, but as a broad...with a broad brush they're not changing the program that much. [LR179]

SENATOR HUDKINS: So if let's say that we do get the final rule the first of December of this year, how long would it take for Nebraska to start issuing the new driver licenses? [LR179]

BEVERLY NETH: Well, if all things remain constant in the final rule, the deadline for us is January 1, 2010. That is when the date we would be required, if we were going to issue at that point...that is the date that says this is the drop-dead date for states who are going to comply to issue REAL-ID-compliant cards. There's nothing that says you can't come on after that. It's just, that's the date the feds are really going to start enforcing the program, if I understand their interpretation correctly. [LR179]

SENATOR HUDKINS: Yeah, but they're dragging and dragging and dragging. And it's

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taking them longer but they're not going to say, okay, it's taken us six months to do this, you have an additional six months. They're not going to do that? [LR179]

BEVERLY NETH: That's my understanding. [LR179]

SENATOR HUDKINS: Jeez. All right. If I come in, let's say my birthday is in a month, and I would come in to get my license renewed and I bring in my passport for identification. How long then would it take me...how long would it take your offices to then issue my license? [LR179]

BEVERLY NETH: If you're going to do that within this next month or within the REAL... [LR179]

SENATOR HUDKINS: Or whenever...let's... [LR179]

BEVERLY NETH: It really doesn't change that much. If...it's going to take a little more time. It will probably double the time you're going to spend with an examining person. And so that plays into our staffing some. If we're spending twice as much time with applicants, it doesn't necessarily mean we need twice as much staff, but it's a time issue. It might take you twice as long, it may take you up to 20 minutes in order to get through the process. It all depends upon exactly what it is we're doing. If we're imaging your documents, keeping those with your record, they're just more process for an examiner to go through. The examiner will take your photo, all of those kinds of things. If we move to a central-issuance environment, what you would walk away with is probably either a cardboard stock document or maybe even a piece of paper that says it's not valid for identification purposes, but it is valid as a driving permit. It would probably have a black and white photo on it of you hopefully. And that would be what you would retain until your card is mailed to you. In states that have moved to a central issuance I know that they've told people it would take, you know, less than ten days. Those cards are in that environment, in some of the larger states, Massachusetts is one, I've spoken with.

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The card gets to the customer within five days. So it's not a long lag. One piece of that...what that does, I mean, it is a card with your photo on it, it's a card with all the security on it you can possibly have, mailed to the address you gave us. And, you know, what someone's going to do with that card...it's going to be ultra-difficult to change any information within that card. And if we're mailing it you and if we're speaking to you the way we should be, we're going to tell you: now, you do want to give us the address where this is going to end up. It becomes kind of almost a de facto address verification program, because if you're not giving me the right address it's not going to get to you. And we're going to have, I'm assuming, those cards will be returned to us if they're undeliverable. They're not just going to sit in a post office. Our process is going to require that those come back to us, so there would be some kind of verification of delivery. [LR179]

SENATOR HUDKINS: All right, we're going to have 19 new facilities? [LR179]

BEVERLY NETH: Well, they would be facilities that would probably be...whether they're new in the context of, I'm not sure exactly how you mean that: new buildings or...probably not. I mean, that's certainly...to build 19 new facilities I can't imagine what the cost of that would be. Most definitely we would be working in conjunction with DAS and people who do the leasing of the state facilities to find existing facilities, colocate with other agencies where possible, those kinds of things. [LR179]

SENATOR HUDKINS: Why would they have built a new driver license testing station in Omaha with not sufficient parking? I know that's not your fault, but... [LR179]

BEVERLY NETH: I don't know. [LR179]

SENATOR HUDKINS: All right. And then to mail, how many drivers do we have in Nebraska? [LR179]

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BEVERLY NETH: We have...well, 1.3 million licensed drivers. [LR179]

SENATOR HUDKINS: Okay. Times 41 cents. (Laughter) [LR179]

BEVERLY NETH: Well, I think we can get some kind of bulk mailing rate out of that. (Laugh) Yes, it does...what you have in the context of the costs: we currently pay our vendor \$4.30 per card. And that covers a myriad of things. But what it covers in some sense is it covers: the hardware associated with the system. Digimarc, who is our vendor, owns the hardware. They own the PCs and the card printers that are currently out there. We have 242 PCs under this contract and we have 108 card printers under the contract. That represents a large part of the cost of our contract. If we eliminate the...if we go into regional centers, there is an opportunity, I think, for us to eliminate the vendor owning the equipment. Maintenance and support of 242 pieces of equipment by the state of Nebraska in 99 different sites is frankly, challenging. It's challenging now to do maintenance and support of our BTR system that's sent out kind of in the same fashion. So we relied upon the vendor to provide that and that has a cost with it. The elimination of the card printers and the movement to the central issuance process puts that basically into a vendor-operated facility. Our current vendor has three different locations around the country where they issue cards--very, very secure facilities, the highest level you could possibly imagine. They do card production for a number of states. Nebraska's 1.3 million cards would be a blip on their screen of the card production they do. So your overall contract costs are probably impacted less than you would think, even with the additional mailing costs. [LR179]

SENATOR HUDKINS: Another thought I'm having here on page 5 of your testimony: the treasurer's staff simply didn't bother to match the name of the individual with the person whose picture he was taking. Does that happen often? [LR179]

BEVERLY NETH: Well, from all indications it's happened about 45,000 times. If you look at the total volume, I mean, we're talking about on an annual basis these people

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are issuing 450,000 documents. It is an error rate of 2 to 4 percent. Now whether that error rate is acceptable, I mean, that's a fairly high error rate. If you were in a Six Sigma program that would be way too high to accept. So it is...it's...I don't know what explains it. I don't have an explanation for it. [LR179]

SENATOR HUDKINS: And we've talked about, you know, the fraud, the ID theft and all of that, well the REAL ID take care of those types of problems? [LR179]

BEVERLY NETH: The process could certainly minimize the issues. How we would...oversight staff, train staff, and the process we would put the applicant through, the documents you accept, the verification of those documents, those kinds of things certainly help you minimize that. I would never say that we are eliminate it 100 percent, because people can certainly come up with some very good documents. And, quite frankly, the issue of people voluntarily giving their identity over to somebody else is not going to stop. People will still do that, even though it is a direct consequence to them, they still do it. [LR179]

SENATOR HUDKINS: Thank you. [LR179]

SENATOR FISCHER: At this time I would like to welcome Senator Arnie Stuthman from Platte Center, who is the Vice Chair of the committee. You finished your one meeting and now you're here, so welcome. Any other questions for the Director? I see none. Thank you very much. [LR179]

BEVERLY NETH: Thank you for your time, I appreciate it. [LR179]

SENATOR FISCHER: Thank you. Any others wishing to provide information to the committee? Director spent a lot of time, yes...anyone else wishing to come forward? I see none. Oh, we do have one. [LR179]

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LAUREL MARSH: (Inaudible.) [LR179]

SENATOR FISCHER: That would be fine. Good morning. [LR179]

LAUREL MARSH: Good morning. My name is Laurel Marsh and I'm here today for ACLU Nebraska. I am not here to provide additional information on the process or cost; I think those have been outlined in great detail by the Director. But I do have a couple of comments and I'd like to be consistent with the testimony that we provided on both LR28 and LB285 earlier this year, that both dealt with REAL ID. And in addition to the practical difficulties and the cost that would be incurred to the state of Nebraska, REAL ID essentially--whether you call it a database or a pointer system--it essentially creates a national identity register. It creates a statewide identity register that when integrated with the registers of the other 50 states would, for all practical purposes, create a national database, which would be the equivalent of a national identity card. We are not insensitive to the needs of the United States to collectively balance security issues with our individual rights of privacy. REAL ID was passed in 2005 by Congress. It was attached to a bill that funded both the Iraq War and tsunami relief. Very few people voted in opposition to this bill. And I guess the point is that there has been no national discussion on the desirability of the end effect. There has been no national discussion on whether or not we want a national identity card. And we should have this discussion on a national level, before states adopt and spend the time and the resources to create a document that has an effect that has not been totally discussed. We should collectively decide how we will balance our privacy interests with our security interests. A couple of comments on things that occurred to me as I was listening to Director Neth speak: if the databases that we would be modelling on have reliability in the 90 percent--and I don't doubt that they do, because I think that Nebraska is very good at complying and has excellent systems--but if we have reliability that's in the 90 percent, that means that there's somewhere between 1 percent and 10 percent where the data is not reliable or is compromised for some reason. That means that there would be somewhere potentially between 17,000 and 170,000 Nebraskans who over time would

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need either state IDs or driver's licenses that would have a hassle in obtaining them. That's a fair...even the low end is a fair large number of people. And in our own personal experience, my husband and I, all systems are prone to human error. And if they weren't we would not have received a letter from the Veterans Administration a couple of years ago that advised him that his personal information had been compromised, along with that of several million other veterans when an employee took information home inappropriately. And we were advised to take steps to protect his identity. Human error does occur. I would also like to note that several of the things that Director Neth mentioned, that if they are good ideas, and are needed to strengthen our current system, could occur without the adoption of REAL ID. You can consolidate services now if that is a good way to go. You can mail driver's licenses now if that cuts out a possibility of fraud. You could better train and better pay your driver's license examiners and other DMV staff. This would go a long way. You could offer expanded hours. There are steps that the state could take and could fund to enhance the quality and the security of our existing driver's licenses that just don't require REAL ID. I would like to applaud the state of Nebraska for passing LR28 earlier this year, which enjoined Congress to rescind REAL ID. And we would like to urge the state of Nebraska and the Transportation Committee to consider introducing legislation like that of Montana, Maine, Georgia, New Hampshire, South Carolina, Washington, Oklahoma, and Idaho that would...by which Nebraska would basically refuse to comply and choose a different way to address this problem. And that's the end. Are there questions? [LR179]

SENATOR FISCHER: Thank you. Any questions? I have a question, Laurel. Thank you for being here. I believe that we are, in effect, required to implement this mandate of REAL ID. When you say that we need a national discussion on it, I agree with you. I couldn't agree with you more. I think issues at the federal level are overshadowing the concerns that individual states have brought forward in dealing with REAL ID. That being said, it's a federal mandate. It may be voluntary, and the Legislature overwhelming passed the resolution at the end of last session saying to our Congressional delegation: we want this repealed. We don't believe it needs to be

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implemented. The cost is too high. What more can we do? What more can we do at the state level when you have a federal mandate facing the citizens of this state who are going to have to deal with it in trying to travel, trying to enter federal buildings? You know, we don't know the effects down the road. Can they travel to another state even, any more? You know, that's been brought up by some people. So what can we do besides passing another resolution just saying we're not going to do it? [LR179]

LAUREL MARSH: One of the things that...and this is just a personal observation. Over time, I have watched the state of Nebraska adopt legislation in the areas of Health and Human Services and Medicare...things such as commercial driver's licenses. I mean, there are many, many, many areas you can go through statute and see where we have consciously and deliberately adopted, for all practical purposes, a federal law and made it our own, because it's something the states implement and the feds do not. And we have sought rigorously to make our systems be compatible with those of other states, so that there is ease of doing business across state lines or making things uniform. It has been...I think that it is a real anomaly to have eight states already say, not only in terms of a resolution, but in terms of statute: we're not going to do this. You're asking us to do something, to go in a direction that we don't want to go. If you think of the huge number of things that we do, I'm not going to say willingly, but generally thinking that it's probably a reasonable end point, how unreasonable is this to all at once have the states say, wait a minute, we need a different discussion? If I had the magic answer for what the magic balance was between our collective security interests on a national level and our collective...our individual privacy interests, I would write it down and hand it to you. Well, actually maybe I'd sell it. (Laughter) I'm not quite that nice. But it strikes me that there's got to be a third way. That instead of the polarized position that, yes, we want REAL ID and the other polarized that...no, we don't need any type of security document that the benefit of the collective discussion would be a system that would balance our security issues with our privacy rights. I don't know what that end point is, but I think that if a statute carries more force than a resolution, maybe that would get the attention of policymakers a little bit more dramatically. It's hard for me to believe that all the citizens

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of the state of Georgia, that headquarters a significant airline industry, are not going to be allowed to get on an airplane. So is...you know, maybe there's an airplane lobby out there. [LR179]

SENATOR FISCHER: I can tell you I was just recently at a meeting with NCSL, and I had been to an earlier one a few months ago, and just in that time frame I have seen legislators from states become more adamant in opposition to REAL ID, more focused in fighting this. And as I said, I wish our Congressional delegation was here and would take note. I just...I'm amazed that we haven't seen a reaction from Congress on this, with the uproar that I hear is going on in individual states across this nation. So thank you very much for being here. [LR179]

LAUREL MARSH: Thank you. [LR179]

SENATOR FISCHER: Anyone else wishing to come forward? Anyone else wishing to come forward today? I see no one. And with that I will close our hearing on LR179. Thank you all for being in attendance. [LR179]